

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON FINANCE

FEBRUARY 23, 2012

**MEASURE:** H.B. No. 1879, H.D. 1

**TITLE:** Relating to the One Call Center

Chair Oshiro and Members of the Committee:

**DESCRIPTION:**

This bill would exempt all pest control operators from having to comply with Chapter 269E, Hawaii Revised Statutes ("HRS"), the Hawaii One Call Utility Notification law ("One Call Center Law").

**POSITION:**

The Commission would like to offer the following comments for the Committee's consideration.

**COMMENTS:**

To comply with federal law (Minimum standards for State one-call notification programs<sup>1</sup>), and to address the concerns of the Hawaii Pest Control Association and The Gas Company, the Commission does have the authority to issue binding interpretations or declaratory rulings to assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with activities of types of excavators. The issuance of a declaratory ruling can help to resolve the issue being raised in this legislation and can help the State comply with federal law regarding one call center operations, whereas a statutory exemption may not be in compliance with the federal law. The Commission has begun an investigation under HRS § 269E-3(4) to assess and evaluate the general risks

---

<sup>1</sup> 49 U.S.C. § 6103 (1998).

caused by pest control operator activities with respect to damage caused by that industry to underground facilities ("Investigation").

The Commission hopes to complete its Investigation and issue a declaratory ruling by the close of this legislative session and requests that this measure include a defective date to allow as much time as possible for the Commission to conclude this matter.

Thank you for the opportunity to testify on this measure.

**BIA-HAWAII**  
**BUILDING INDUSTRY ASSOCIATION**

**Testimony to the House Committee on Finance**  
Thursday, February 23, 2012  
2:00 p.m.  
State Capitol, Room 308

**RE: HB 1879 HD1, Relating to the One Call Center**

Dear Chair Oshiro, Vice-Chair Lee, and Members of the Committee on Finance:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is **opposed** to HB 1879 HD1.

The Hawaii One Call Center was established to receive requests for locating underground facilities from excavators and to relay these requests to facility operators. The Hawaii One Call Center Advisory Committee is dedicated to promoting organized planning and installation of underground facilities as well as protecting those substructures once placed.

The advisory committee is against any exemption from the One Call Center law, especially one given to any group. The Gas Company has confirmed four pipeline breaks by pest control operators since November 2008. Exemption from calling into the One Call Center has the huge potential of leading to further gas line breaks, possible gas explosions, and huge loss of property and lives. One Call is a free service, created for the safety of the people of Hawaii.

BIA-Hawaii urges this exemption not be made permanent.

Thank you for the opportunity to share our views with you.

# THE GAS COMPANY

P.O. Box 3000  
Honolulu, Hawaii 96802-3000  
[www.hawaiiigas.com](http://www.hawaiiigas.com)

February 23, 2012

Chair Marcus Oshiro  
Members of the Committee  
Committee on Finance

Testimony of Stephanie Ackerman  
Vice President Public Policy and Communications

H.B. 1879 HD1  
Relating to the One Call Center

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

I am Stephanie Ackerman, Vice President of the Gas Company. The Gas Company strongly opposes this measure because it exempts excavators, namely pest control operators, from contacting the One-Call Center prior to conducting subsurface ground work.

The Gas Company's records confirm four pipeline breaks by pest control operators since November 2008. Gas pipeline safety is our number one priority. We believe these pipeline breaks could have been prevented had these pest control companies contacted the state's One-Call Center to confirm the location of the underground infrastructure before penetrating the ground surface. The U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) invests considerable resources to ensure that every state across the country understands how to conduct best practices through the establishment of One-Call centers to prevent damage to underground utility infrastructure and to minimize the risk of injury to people and damage to property.

All stakeholders must recognize that safety is shared responsibility and by allowing some to circumvent the One-Call system through an exemption, we are needlessly introducing risk to the people of Hawaii.

The Gas Company is open to working with the pest control operators through the One Call Center to identify whether measures can be adopted to address their concerns without compromising safety. Meanwhile, we ask that the exemption be allowed to expire so that every business that performs excavations in its operations develops safe practices and be required to contact the One Call Center.

Thank you for allowing me to testify on H.B. 1879 HD1.



# **HAWAII PEST CONTROL ASSOCIATION**

Century Square – 1188 Bishop St., Ste. 1003\*Honolulu, HI 96813-3304

Telephone (808) 533-6404 • Fax (808) 533-2739

February 23, 2012

Testimony To: House Committee on Finance  
Representative Marcus Oshiro, Chair

Presented By: Tim Lyons, CAE  
Executive Director

Subject: H.B. 1879, HD 1 - RELATING TO THE ONE CALL CENTER

Chair Oshiro and Members of the Committee:

I am Tim Lyons, Executive Director of the Hawaii Pest Control Association an organization composed of 96% of all the structural licensed pest control operators.

It is our members who typically provide for applications to both residential and commercial sites to guard and protect against termites and other household pests. This is often accomplished by utilization of bait stations. This is a concept developed by industry in order to maximize the safety precautions involved with pesticides around homes in that, the pesticides are contained in bait stations that are very difficult to get into and typically placed in the ground.

After the establishment of the One Call Center it was discovered that pest control operators were included in this effort because they merely "move dirt". That is the definition of an

excavator in Section 269E is exactly that, where "earth...in the ground is moved". There is no definition as to the amount of dirt, how much dirt, how often they move that dirt. It is likely that most homeowners planting a shrub fall under this definition.

The purpose behind the One Call Center has much merit; that is, to avoid a possible breaking of utility lines. These utility lines typically are required by code to be twelve (12) to eighteen (18) inches below the surface. Our bait stations don't come anywhere near that depth.

Requiring our members to participate in the One Call Center activities will add costs to a termite job and what we feel are unnecessary delays. Typically with the One Call Center an additional trip will be needed after the customer agrees to the estimate in order to provide chalk lines as to the approximate area that will be dug. Additionally, this must be done at least five (5) days in advance so the customer who wants action now will have to wait that additional time period.

We also think that one of the more important reasons for our members to be exempt as they have been for the last three (3) years, is that the penalty does not match the activity. The penalties under 269E-14 are \$5000.00 per day up to \$10,000.00 and the possibility of being required to go to an educational program. An awful lot of termite jobs are barely in the three figures and rarely in the four figures. The fine per day appears to be entirely too severe.

Lastly, we are aware of exactly four (4) breaks in three (3) years out of 240,000 holes made by the industry. That translates to about four thousand (4000) jobs a year that the One Call

Center does not have to mark now under which they would have to mark under this program and for very, very little benefit.

Based on the above, we believe that our exemption from this activity is merited and we would be happy to work with the utilities in an effort to further educate pest control operators about potential breaks in lines if it is determined that it would be of assistance.

We support this bill.

Thank you.